

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KYLE SMITH,

Plaintiff,

v.

PROMARK PRODUCTS WEST, INC.,

and

ARIENS COMPANY,

Defendants.

CIVIL ACTION NO. 02-CV-2718

ORDER

AND NOW, this 26th day of January, 2005, upon consideration of Defendants' Motion *in Limine* to Preclude Countervailing Opinion Testimony or Evidence as to Proper Maintenance and an Adverse Inference Jury Instruction for Plaintiff's Spoliation of Evidence (Docket No. 34), Plaintiff's response thereto (Docket No. 39) and the parties' supplemental reply briefs (Docket Nos. 45 and 46), it is hereby **ORDERED** that Defendants' motion is **GRANTED in part**, and **DENIED in part**.

Defendants' Motion *in Limine* to preclude countervailing opinion testimony or evidence as to proper maintenance and condition is **GRANTED**.

Defendants' motion for an adverse inference jury instruction is **DENIED**.

BY THE COURT:

RONALD L. BUCKWALTER, S.J.